



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
4400 PGA BOULEVARD, SUITE 500
PALM BEACH GARDENS, FL 33410

REPLY TO
ATTENTION OF

5/29/2009

Palm Beach Gardens Regulatory Office

PUBLIC NOTICE

Permit Application No. SAJ-2009-1571 (IP-MJW)

TO WHOM IT MAY CONCERN: This district has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403) as described below:

APPLICANT: Alexander P. & Linda Kowalczyk
2800 SE 47th Street
Lighthouse Point, FL 33064

WATERWAY & LOCATION: The project is located on Cap Island 141-34 B Lot 4 and Lot 3 N 35, (Section 20, Township 48N, Range 43E), Lighthouse Point, Broward County, Florida. Tax Parcel ID: 484320090031 and 484320090040.

Directions to the site are as follows: 1) Merge onto I-95 S via the ramp to Miami, 2) Take Exit 39 for Sample Road/FL-834, 3) Keep left at the fork, follow signs for Lighthouse Point, 4) Turn left at NW 36th St/E Sample Rd., 5) Turn right at NE 31st Ave. The property is on the left.

LATITUDE & LONGITUDE: Latitude 26°16'3.58" North
Longitude 80°4'54.59" West

PROJECT PURPOSE:

Basic: The basic project purpose is shoreline stabilization.

Overall: The overall project purpose is to stabilize the shoreline from erosion caused by boating and anchoring of vessels and reclaim eroded property.

PROPOSED WORK: The applicant proposes to construct a seawall and concrete cap at the property line and backfill 480 cubic yards to the existing top-of-bank. The seawall will be placed at the mean high water line and include backfilling of Limestone rip-rap is proposed to be installed along the outer edge of the

seawall. The property line is located at the mean high water line. One black mangrove is proposed to be removed.

Avoidance and Minimization Information: The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

Compensatory Mitigation: The applicant has offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:
The applicant proposes to install a mangrove planter along the existing bulkhead on the west side of the subject property. The proposed planter will be surrounded by limestone rip-rap and will be planted with red mangrove seedlings.

EXISTING CONDITIONS: The wetland system consists of a saltwater system. The project shoreline is undeveloped and consists entirely of sand with scattered upland vegetation such as beach naupaka (*Scaevola* sp.), Australian pine (*Casuarina equisetifolia*), and one black mangrove. The mangrove is proposed to be removed for the proposed seawall and backfill installation. Shoal grass and Johnson's seagrass were noted during the seagrass survey in the project area but not within the project footprint. The existing area surrounding the project area consists of residences to the north and south, Lake Placid to the west and the Intracoastal Waterway to the east.

ENDANGERED SPECIES: The U.S. Army Corps of Engineers (Corps) has determined the proposed project may affect, but is not likely to adversely the threatened Johnson's seagrass (*Halophila johnsonii*), the endangered small toothed sawfish (*Pristis pectinata*), or the endangered/threatened swimming seaturtles (*Chelonia mydas*, *Eretmochelys imbricate*, *Lepidochelys kempii*, *Dermochelys coriacea*, *Caretta caretta*, *Lepidochelys olivacea*) or its designated critical habitat. The Corps will request National Marine Fisheries Service's concurrence with this determination pursuant to Section 7 of the Endangered Species Act.

The Corps has determined the proposed project may affect the endangered West Indian manatee (*Trichechus manatus*). The Corps has received concurrence with this determination based on the October 2008 Manatee Key and no further consultation is necessary.

ESSENTIAL FISH HABITAT (EFH): This notice initiates consultation on EFH as required by the Magnuson-Stevens Fishery

Conservation and Management Act of 1996. Based on a resource survey performed by The Chappell Group, Inc. on April 13, 2009, the proposal would impact approximately 0.12 acres of mud, shell, sand and rock bottom and would remove one black mangrove wetlands and utilized by various life stages of penaeid shrimp complex, red drum, reef fish, stone crab, spiny lobster, migratory/pelagic fish, and snapper/grouper complex. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or federally managed fisheries in the South Atlantic Region. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The jurisdictional line has not been verified by Corps personnel.

AUTHORIZATION FROM OTHER AGENCIES: Water Quality Certification may be required from the Florida Department of Environmental Protection and/or one of the state Water Management Districts.

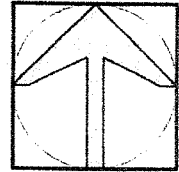
Comments regarding the application should be submitted in writing to the District Engineer at the above address within 21 days from the date of this notice.

If you have any questions concerning this application, you may contact Melody J White at the letterhead address, by electronic mail at Melody.J.White@usace.army.mil, by fax at 561-626-6971, or by telephone at 561-472-3508.

The decision whether to issue or deny this permit application will be based on the information received from this public notice and the evaluation of the probable impact to the associated wetlands. This is based on an analysis of the applicant's avoidance and minimization efforts for the project, as well as the compensatory mitigation proposed.



NORTH



N.T.S.

THE Chappell GROUP INC.
 2300 W. Sample Rd. Ste. 307
 Pompano Beach, Florida 33073
 tel 954 968 1504
 fax 954 968 1513 www.thechappellgroup.com

- Environmental Consultants
- Marine & Wetland Permitting
- Mitigation Design & Monitoring
- T&E Species Surveys
- Phase I ESAs

KOWALCZYK RESIDENCE

PREPARED FOR:
 Mr. Alex Kowalczyk

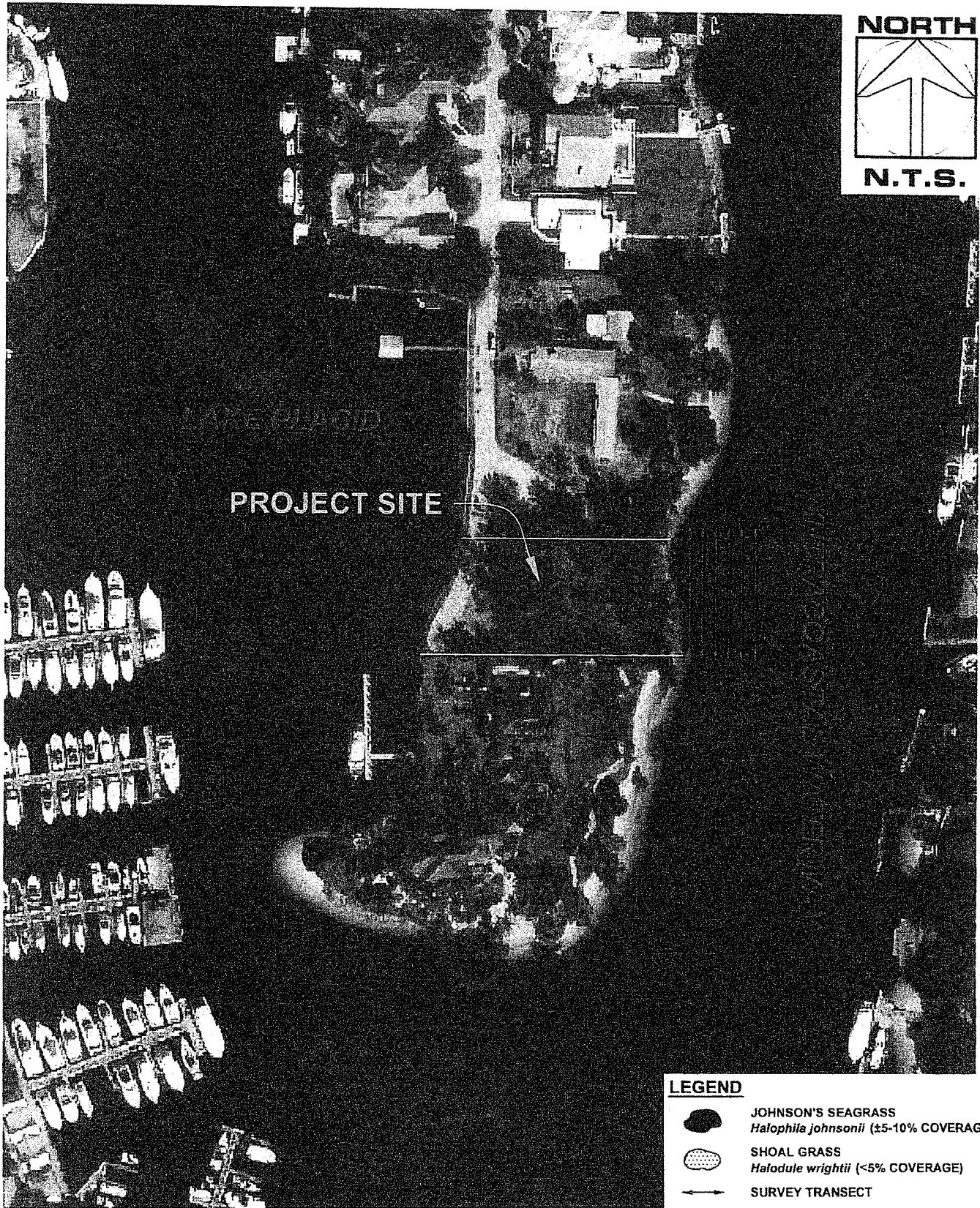
LOCATION MAP/ AERIAL EXHIBIT

Date:
 4/15/09
 Proj No.:
 09-0002

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LEGEND

- JOHNSON'S SEAGRASS**
Halophila johnsonii (±5-10% COVERAGE)
- SHOAL GRASS**
Halodule wrightii (<5% COVERAGE)
- SURVEY TRANSECT**

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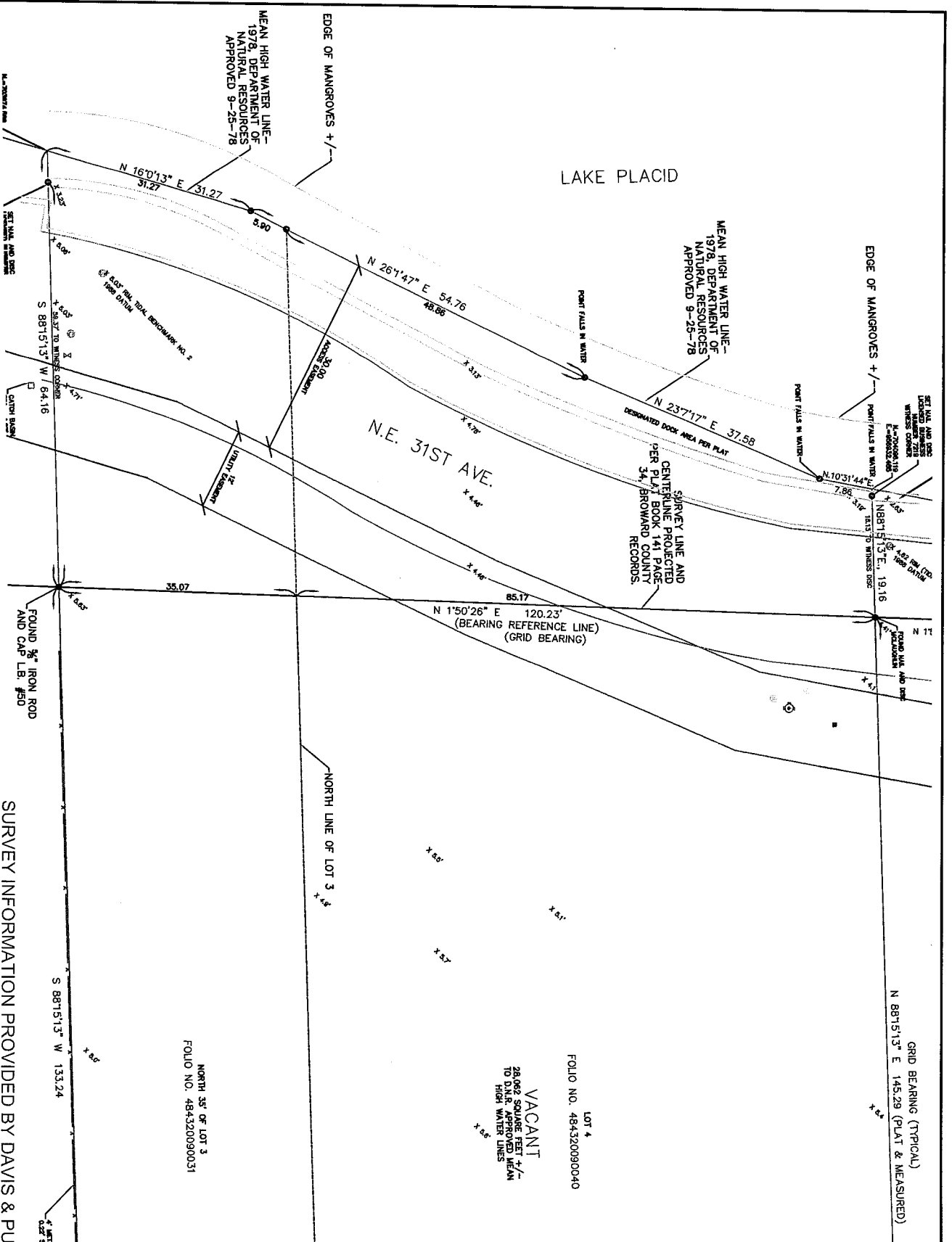
SEAGRASS MAP

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MATCHLINE-SEE SHEET 2 OF 4



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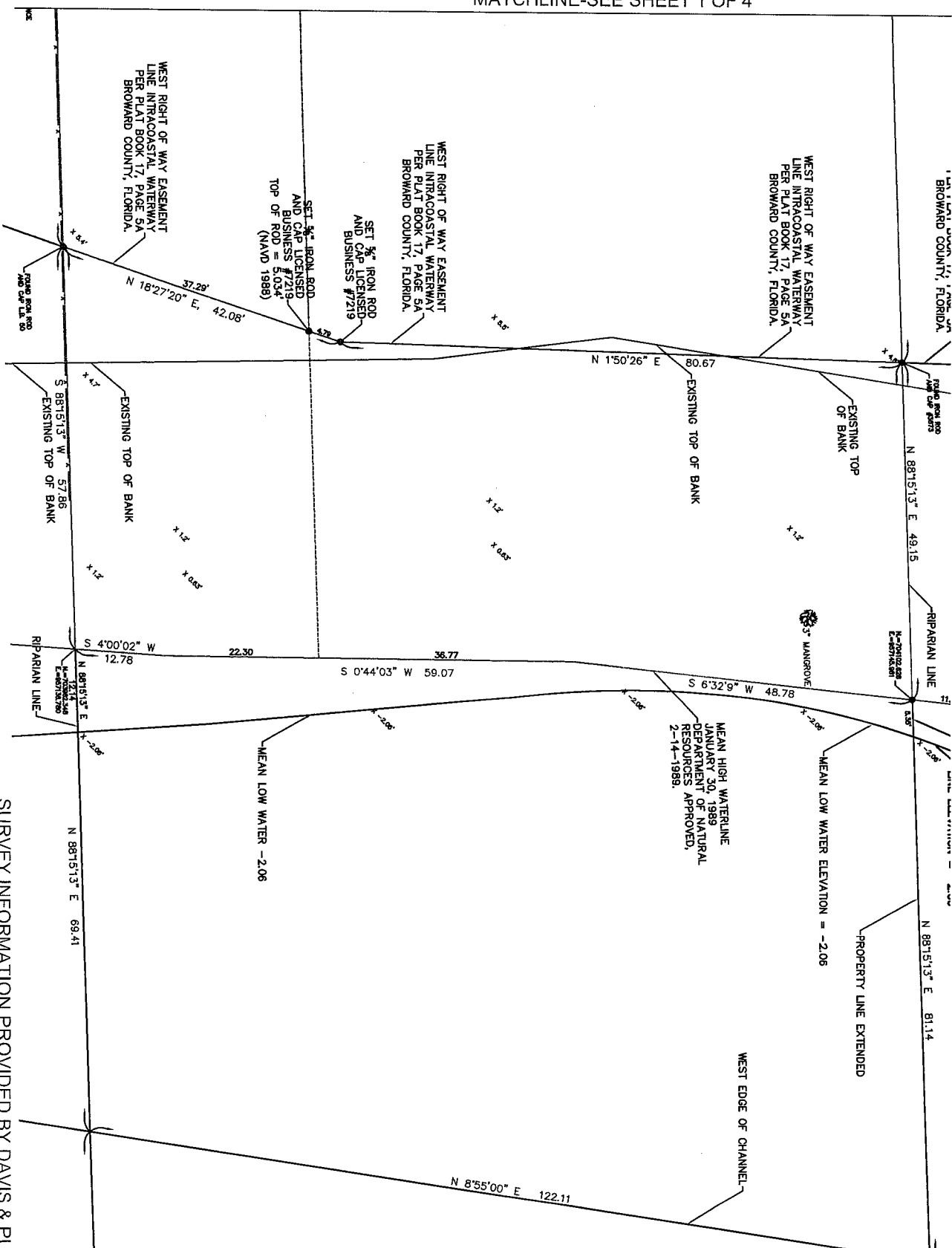
PREPARED FOR:
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- Phase I ESAs

Chappell
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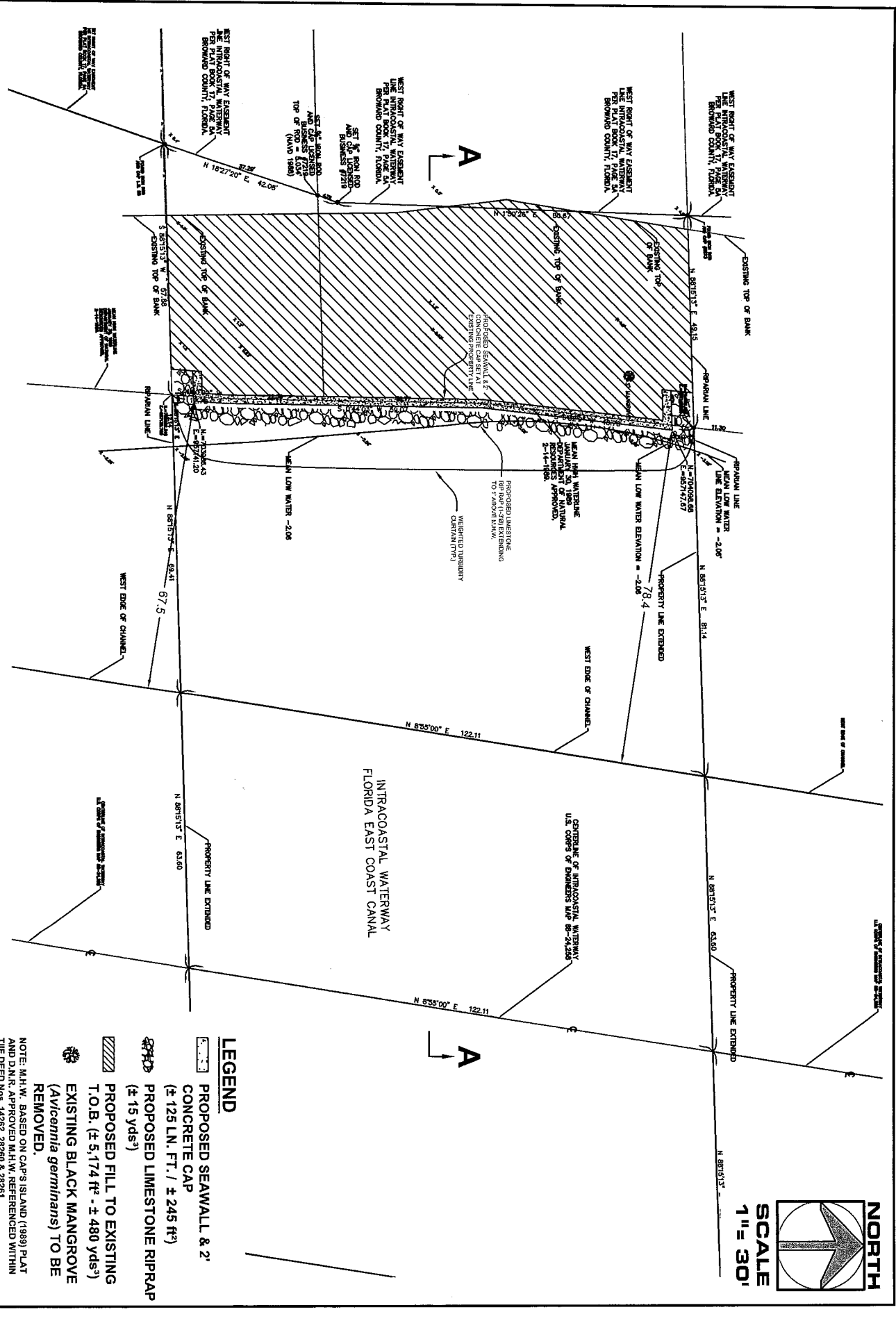
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- Utilization Design & Monitoring
- T&E Species Surveys
- Phase I ESAs

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EXISTING CONDITIONS			
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NORTH

SCALE
1" = 30'

LEGEND

- PROPOSED SEAWALL & 2' CONCRETE CAP
(± 125 LN. FT. / ± 245 ft³)
 - PROPOSED LIMESTONE RIPRAP
(± 15 yds³)
 - PROPOSED FILL TO EXISTING T.O.B. (± 5,174 ft³ ± 480 yds³)
 - EXISTING BLACK MANGROVE (Avicennia germinans) TO BE REMOVED.
- NOTE: M.H.W. BASED ON CAP'S ISLAND (1989) PLAT AND D.N.R. APPROVED M.H.W. REFERENCED WITHIN TIF DEED NOS. 14282, 28260 & 28261

KOWALCZYK RESIDENCE

PREPARED FOR:
Mr. Alex Kowalczyk

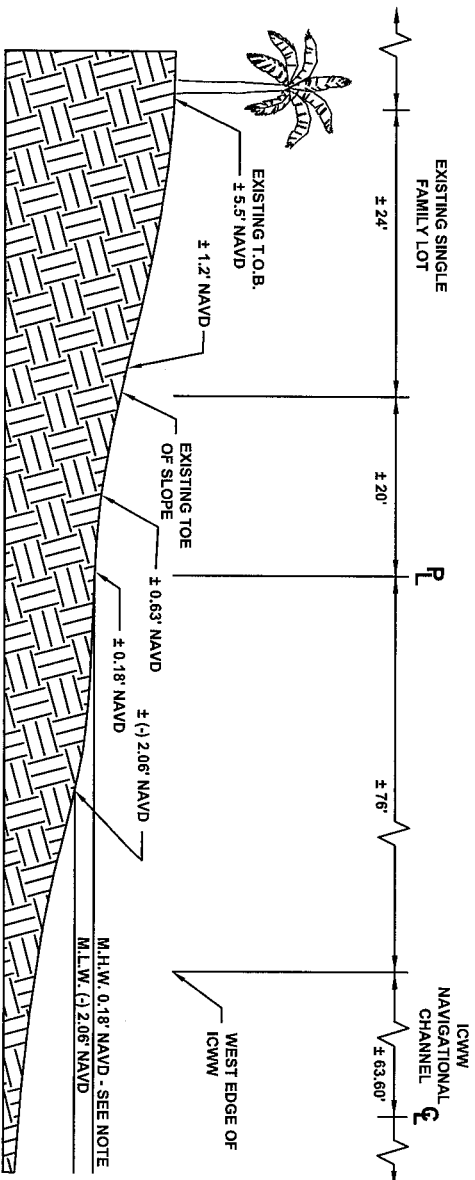
PROPOSED CONDITIONS			
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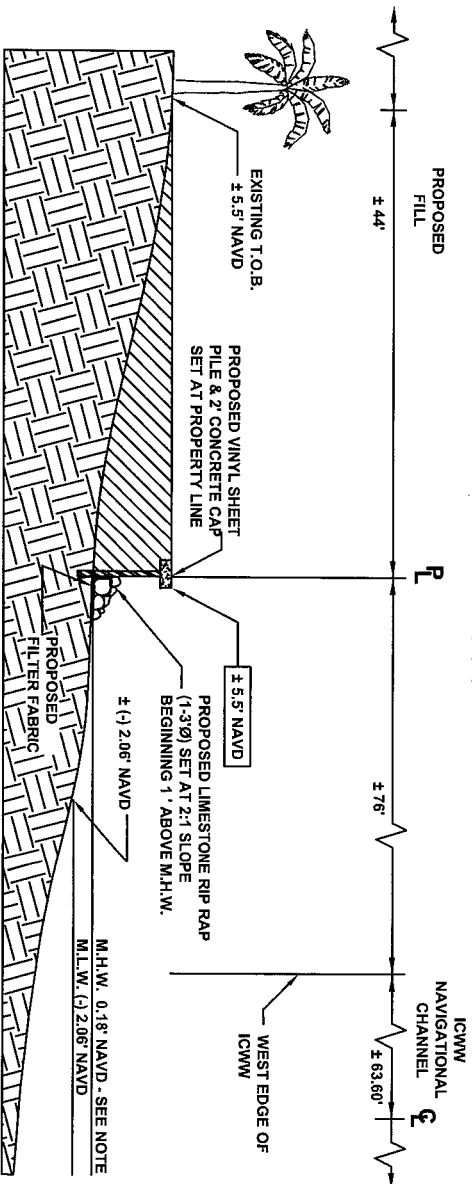
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SECTION A-A EXISTING CONDITIONS N.T.S.



SECTION A-A PROPOSED CONDITIONS N.T.S.



LEGEND

- PROPOSED SHEET PILE & CONCRETE CAP (140 L.N. FT. / ± 422 ft²)
- PROPOSED FILL TO EXISTING T.O.B. (± 4,744 ft² ± 440 yds³)
- PROPOSED LIMESTONE RIPRAP (± 15 yds³)
- EXISTING ELEVATION (NAVD)
- PROPOSED ELEVATION (NAVD)

NOTE: M.H.W. BASED ON CAPS ISLAND (1989) PLAT AND D.M.R. APPROVED M.H.W. REFERENCED WITHIN TIF DEED Nos. 14262, 28260 & 28261

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SECTION DETAILS		
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IMPACT ON NATURAL RESOURCES: Preliminary review of this application indicates that an Environmental Impact Statement will not be required. Coordination with US Fish and Wildlife Service, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information that is instrumental in determining the impact the proposed action will have on the natural resources of the area. By means of this notice, we are soliciting comments on the potential effects of the project on threatened or endangered species or their habitat.


IMPACT ON CULTURAL RESOURCES: Review of the latest published version of the National Register of Historic Places indicates that no registered properties, or properties listed as eligible for inclusion therein, are located at the site of the proposed work. Presently, unknown archaeological, scientific, prehistorical, or historical data may be lost or destroyed by the work to be accomplished.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act of the criteria established under authority of Section 102(a) of the Marine, Protection, Research, and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

The US Army Corps of Engineers (Corps) is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make or deny this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

COASTAL ZONE MANAGEMENT CONSISTENCY: In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan. In Puerto Rico, a Coastal Zone Management Consistency Concurrence is required from the Puerto Rico Planning Board. In the Virgin Islands, the Department of Planning and Natural Resources permit constitutes compliance with approved Coastal Zone Management Plan.

REQUEST FOR PUBLIC HEARING: Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.


David S. Hobbie
Regulatory Division